

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 182
97TH GENERAL ASSEMBLY

Reported from the Committee on Transportation and Infrastructure, February 12, 2013, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 182, adopted February 13, 2013.

Taken up for Perfection February 13, 2013. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

0935S.07P

AN ACT

To repeal sections 32.087 and 144.757, RSMo, and to enact in lieu thereof three new sections relating to local taxes on motor vehicle sales, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 32.087 and 144.757, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 32.087, 144.757, and
3 1, to read as follows:

32.087. 1. Within ten days after the adoption of any ordinance or order
2 in favor of adoption of any local sales tax authorized under the local sales tax law
3 by the voters of a taxing entity, the governing body or official of such taxing
4 entity shall forward to the director of revenue by United States registered mail
5 or certified mail a certified copy of the ordinance or order. The ordinance or order
6 shall reflect the effective date thereof.

7 2. Any local sales tax so adopted shall become effective on the first day
8 of the second calendar quarter after the director of revenue receives notice of
9 adoption of the local sales tax, except as provided in subsection 18 of this section.

10 3. Every retailer within the jurisdiction of one or more taxing entities
11 which has imposed one or more local sales taxes under the local sales tax law
12 shall add all taxes so imposed along with the tax imposed by the sales tax law of
13 the state of Missouri to the sale price and, when added, the combined tax shall
14 constitute a part of the price, and shall be a debt of the purchaser to the retailer

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 until paid, and shall be recoverable at law in the same manner as the purchase
16 price. The combined rate of the state sales tax and all local sales taxes shall be
17 the sum of the rates, multiplying the combined rate times the amount of the sale.

18 4. The brackets required to be established by the director of revenue
19 under the provisions of section 144.285 shall be based upon the sum of the
20 combined rate of the state sales tax and all local sales taxes imposed under the
21 provisions of the local sales tax law.

22 5. (1) The ordinance or order imposing a local sales tax under the local
23 sales tax law shall impose upon all sellers a tax for the privilege of engaging in
24 the business of selling tangible personal property or rendering taxable services
25 at retail to the extent and in the manner provided in sections 144.010 to 144.525,
26 and the rules and regulations of the director of revenue issued pursuant thereto;
27 except that the rate of the tax shall be the sum of the combined rate of the state
28 sales tax or state highway use tax and all local sales taxes imposed under the
29 provisions of the local sales tax law.

30 (2) **Notwithstanding any other provisions of law to the contrary,**
31 **the local sales tax shall be imposed on all sales, including sales at retail**
32 **and any other sale, except wholesale transactions, of motor vehicles,**
33 **trailers, boats, and outboard motors, regardless of whether the sale of**
34 **such motor vehicles, trailers, boats, and outboard motors occurred**
35 **within the state of Missouri or in any other state. The rate of the tax**
36 **for a sale at retail under this subdivision shall be the sum of the**
37 **combined rate of the state sales tax authorized under section 144.020**
38 **and all applicable voter approved local sales taxes. The rate of the tax**
39 **for all other sales under this subdivision shall be the sum of the**
40 **combined rate of the state highway use tax authorized under section**
41 **144.440 and all applicable voter approved local sales taxes.**

42 (3) **Notwithstanding the provisions of subdivision (2) of this**
43 **subsection or any other law to the contrary, local taxing jurisdictions,**
44 **except those in which voters have previously approved a local use tax**
45 **under section 144.757, shall have placed on the ballot on or after the**
46 **general election in November 2014, but no later than the general**
47 **election in November 2016, whether to repeal application of the local**
48 **sales tax to the sale of motor vehicles, trailers, boats, and outboard**
49 **motors that are not subject to state sales tax under section 144.020. The**
50 **ballot question presented to the local voters shall contain substantially**

51 the following language:

52 Shall the (local jurisdiction's name) discontinue
53 applying and collecting the local sales tax on the non-retail sale of
54 motor vehicles, trailers, boats, and outboard motors at the same rate
55 applied to motor vehicles, trailers, boats, and outboard motors sold at
56 retail? Approval of this measure will result in a reduction of local
57 revenue to provide for law enforcement, fire protection, emergency
58 personnel or other vital services for (local jurisdiction's
59 name) and it will place Missouri dealers of motor vehicles, outboard
60 motors, boats, and trailers at a competitive disadvantage to non-
61 Missouri dealers of motor vehicles, outboard motors, boats, and trailers.

62 ☐ YES ☐ NO

63 If you are in favor of the question, place an "X" in the box opposite
64 "YES". If you are opposed to the question, place an "X" in the box
65 opposite "NO".

66 (4) If the ballot question set forth in subdivision (3) of this
67 subsection receives a majority of the votes cast in favor of the proposal,
68 or if the local taxing jurisdiction fails to place the ballot question
69 before the voters on or before the general election in November 2016,
70 the local taxing jurisdiction shall cease applying the local sales tax to
71 the sale of motor vehicles, trailers, boats, and outboard motors not
72 subject to state sales tax under section 144.020.

73 (5) In addition to the requirement that the ballot question set
74 forth in subdivision (3) of this subsection be placed before the voters
75 on or after the general election in November 2014, and on or before the
76 general election in November 2016, the governing body of any local
77 taxing jurisdiction imposing a local sales tax on the sale of motor
78 vehicles, trailers, boats, and outboard motors not subject to state sales
79 tax under section 144.020 may, at any time, place a proposal on the
80 ballot at any election to repeal application of the local sales tax to such
81 sales. If a majority of the votes cast on the proposal by the registered
82 voters voting thereon are in favor of the proposal to repeal application
83 of the local sales tax to such sales, then the local sales tax shall no
84 longer be applied to such sales. If a majority of the votes cast by the
85 registered voters voting thereon are opposed to the proposal to repeal
86 application of the local sales tax to such sales, such application shall

87 remain in effect.

88 (6) In addition to the requirement that the ballot question set
89 forth in subdivision (3) of this subsection be placed before the voters
90 on or after the general election in November 2014, and on or before the
91 general election in November 2016, whenever the governing body of any
92 local taxing jurisdiction imposing a local sales tax on the sale of motor
93 vehicles, trailers, boats, and outboard motors not subject to state sales
94 tax under section 144.020 receives a petition, signed by fifteen percent
95 of the registered voters of such jurisdiction voting in the last
96 gubernatorial election, calling for a proposal to be placed on the ballot
97 at any election to repeal application of the local sales tax to such sales,
98 the governing body shall submit to the voters of such jurisdiction a
99 proposal to repeal application of the local sales tax to such sales. If a
100 majority of the votes cast on the proposal by the registered voters
101 voting thereon are in favor of the proposal to repeal application of the
102 local sales tax to such sales, then the local sales tax shall no longer be
103 applied to such sales. If a majority of the votes cast by the registered
104 voters voting thereon are opposed to the proposal to repeal application
105 of the local sales tax to such sales, such application shall remain in
106 effect.

107 (7) Nothing in this subsection shall be construed to authorize the
108 voters of any jurisdiction to repeal application of any state sales or use
109 tax.

110 (8) If any local sales tax on the non-retail sales of motor vehicles,
111 trailers, boats, and outboard motors is repealed, such repeal shall take
112 effect on the first day of the second calendar quarter after the election.
113 If any local sales tax on the non-retail sales of motor vehicles, trailers,
114 boats, and outboard motors is required to cease to be applied or
115 collected due to failure of a local taxing jurisdiction to hold an election,
116 such cessation shall take effect on March 1, 2017.

117 6. On and after the effective date of any local sales tax imposed under the
118 provisions of the local sales tax law, the director of revenue shall perform all
119 functions incident to the administration, collection, enforcement, and operation
120 of the tax, and the director of revenue shall collect in addition to the **state** sales
121 tax, **or state motor vehicle use tax as appropriate**, for the state of Missouri
122 all additional local sales taxes authorized under the authority of the local sales
123 tax law. All local sales taxes imposed under the local sales tax law together with

124 all taxes imposed under the **state sales tax law, or the state motor vehicle**
125 **use tax law as appropriate**, of the state of Missouri shall be collected together
126 and reported upon such forms and under such administrative rules and
127 regulations as may be prescribed by the director of revenue.

128 7. All applicable provisions contained in sections 144.010 to 144.525
129 governing the state sales tax and section 32.057, the uniform confidentiality
130 provision, shall apply to the collection of any local sales tax imposed under the
131 local sales tax law except as modified by the local sales tax law.

132 8. All exemptions granted to agencies of government, organizations,
133 persons and to the sale of certain articles and items of tangible personal property
134 and taxable services under the provisions of sections 144.010 to 144.525, as these
135 sections now read and as they may hereafter be amended, it being the intent of
136 this general assembly to ensure that the same sales tax exemptions granted from
137 the state sales tax law also be granted under the local sales tax law **and the**
138 **state highway use tax**, are hereby made applicable to the imposition and
139 collection of all local sales taxes imposed under the local sales tax law.

140 9. The same sales tax permit, exemption certificate and retail certificate
141 required by sections 144.010 to 144.525 for the administration and collection of
142 the state sales tax shall satisfy the requirements of the local sales tax law, and
143 no additional permit or exemption certificate or retail certificate shall be
144 required; except that the director of revenue may prescribe a form of exemption
145 certificate for an exemption from any local sales tax imposed by the local sales tax
146 law.

147 10. All discounts allowed the retailer under the provisions of the state
148 sales tax law for the collection of and for payment of taxes under the provisions
149 of the state sales tax law are hereby allowed and made applicable to any local
150 sales tax collected under the provisions of the local sales tax law.

151 11. The penalties provided in section 32.057 and sections 144.010 to
152 144.525 for a violation of the provisions of those sections are hereby made
153 applicable to violations of the provisions of the local sales tax law.

154 12. (1) For the purposes of any local sales tax imposed by an ordinance
155 or order under the local sales tax law, all sales, except the sale of motor vehicles,
156 trailers, boats, and outboard motors, shall be deemed to be consummated at the
157 place of business of the retailer unless the tangible personal property sold is
158 delivered by the retailer or his agent to an out-of-state destination. In the event
159 a retailer has more than one place of business in this state which participates in

160 the sale, the sale shall be deemed to be consummated at the place of business of
161 the retailer where the initial order for the tangible personal property is taken,
162 even though the order must be forwarded elsewhere for acceptance, approval of
163 credit, shipment or billing. A sale by a retailer's agent or employee shall be
164 deemed to be consummated at the place of business from which he works.

165 (2) For the purposes of any local sales tax imposed by an ordinance or
166 order under the local sales tax law, all sales of motor vehicles, trailers, boats, and
167 outboard motors, **regardless of whether the sale of such motor vehicles,**
168 **trailers, boats, and outboard motors occurred within the state of**
169 **Missouri or in any other state,** shall be deemed to be consummated at the
170 residence of the purchaser and not at the place of business of the retailer, or the
171 place of business from which the retailer's agent or employee works.

172 (3) For the purposes of any local tax imposed by an ordinance or under the
173 local sales tax law on charges for mobile telecommunications services, all taxes
174 of mobile telecommunications service shall be imposed as provided in the Mobile
175 Telecommunications Sourcing Act, 4 U.S.C. Sections 116 through 124, as
176 amended.

177 13. Local sales taxes imposed pursuant to the local sales tax law on the
178 purchase and sale of motor vehicles, trailers, boats, and outboard motors shall not
179 be collected and remitted by the seller, but shall be collected by the director of
180 revenue at the time application is made for a certificate of title, if the address of
181 the applicant is within a taxing entity imposing a local sales tax under the local
182 sales tax law.

183 14. The director of revenue and any of **[his] the director's** deputies,
184 assistants and employees who have any duties or responsibilities in connection
185 with the collection, deposit, transfer, transmittal, disbursement, safekeeping,
186 accounting, or recording of funds which come into the hands of the director of
187 revenue under the provisions of the local sales tax law shall enter a surety bond
188 or bonds payable to any and all taxing entities in whose behalf such funds have
189 been collected under the local sales tax law in the amount of one hundred
190 thousand dollars for each such tax; but the director of revenue may enter into a
191 blanket bond covering **[himself] the director** and all such deputies, assistants
192 and employees. The cost of any premium for such bonds shall be paid by the
193 director of revenue from the share of the collections under the sales tax law
194 retained by the director of revenue for the benefit of the state.

195 15. The director of revenue shall annually report on **[his] the**

196 management of each trust fund which is created under the local sales tax law and
197 administration of each local sales tax imposed under the local sales tax law. [He]
198 **The director of revenue** shall provide each taxing entity imposing one or more
199 local sales taxes authorized by the local sales tax law with a detailed accounting
200 of the source of all funds received by [him] **the director** for the taxing
201 entity. Notwithstanding any other provisions of law, the state auditor shall
202 annually audit each trust fund. A copy of the director's report and annual audit
203 shall be forwarded to each taxing entity imposing one or more local sales taxes.

204 16. Within the boundaries of any taxing entity where one or more local
205 sales taxes have been imposed, if any person is delinquent in the payment of the
206 amount required to be paid by [him] **such person** under the local sales tax law
207 or in the event a determination has been made against [him] **such person** for
208 taxes and penalty under the local sales tax law, the limitation for bringing suit
209 for the collection of the delinquent tax and penalty shall be the same as that
210 provided in sections 144.010 to 144.525. Where the director of revenue has
211 determined that suit must be filed against any person for the collection of
212 delinquent taxes due the state under the state sales tax law, and where such
213 person is also delinquent in payment of taxes under the local sales tax law, the
214 director of revenue shall notify the taxing entity in the event any person fails or
215 refuses to pay the amount of any local sales tax due so that appropriate action
216 may be taken by the taxing entity.

217 17. Where property is seized by the director of revenue under the
218 provisions of any law authorizing seizure of the property of a taxpayer who is
219 delinquent in payment of the tax imposed by the state sales tax law, and where
220 such taxpayer is also delinquent in payment of any tax imposed by the local sales
221 tax law, the director of revenue shall permit the taxing entity to join in any sale
222 of property to pay the delinquent taxes and penalties due the state and to the
223 taxing entity under the local sales tax law. The proceeds from such sale shall
224 first be applied to all sums due the state, and the remainder, if any, shall be
225 applied to all sums due such taxing entity.

226 18. If a local sales tax has been in effect for at least one year under the
227 provisions of the local sales tax law and voters approve reimposition of the same
228 local sales tax at the same rate at an election as provided for in the local sales
229 tax law prior to the date such tax is due to expire, the tax so reimposed shall
230 become effective the first day of the first calendar quarter after the director
231 receives a certified copy of the ordinance, order or resolution accompanied by a

232 map clearly showing the boundaries thereof and the results of such election,
233 provided that such ordinance, order or resolution and all necessary accompanying
234 materials are received by the director at least thirty days prior to the expiration
235 of such tax. Any administrative cost or expense incurred by the state as a result
236 of the provisions of this subsection shall be paid by the city or county reimposing
237 such tax.

144.757. 1. Any county or municipality, except municipalities within a
2 county having a charter form of government with a population in excess of nine
3 hundred thousand, may, by a majority vote of its governing body, impose a local
4 use tax if a local sales tax is imposed as defined in section 32.085 at a rate equal
5 to the rate of the local sales tax in effect in such county or municipality; provided,
6 however, that no ordinance or order enacted pursuant to sections 144.757 to
7 144.761 shall be effective unless the governing body of the county or municipality
8 submits to the voters thereof at a municipal, county or state general, primary or
9 special election a proposal to authorize the governing body of the county or
10 municipality to impose a local use tax pursuant to sections 144.757 to
11 144.761. Municipalities within a county having a charter form of government
12 with a population in excess of nine hundred thousand may, upon voter approval
13 received pursuant to paragraph (b) of subdivision (2) of subsection 2 of this
14 section, impose a local use tax at the same rate as the local municipal sales tax
15 with the revenues from all such municipal use taxes to be distributed pursuant
16 to subsection 4 of section 94.890. The municipality shall within thirty days of the
17 approval of the use tax imposed pursuant to paragraph (b) of subdivision (2) of
18 subsection 2 of this section select one of the distribution options permitted in
19 subsection 4 of section 94.890 for distribution of all municipal use taxes. **A tax**
20 **authorized by this section shall not be imposed by any county or**
21 **municipality on the sale of any motor vehicle, trailer, boat, or outboard**
22 **motor, regardless of whether the sale of such motor vehicle, trailer,**
23 **boat, or outboard motor occurred within the state of Missouri or in any**
24 **other state.**

25 2. (1) The ballot of submission, except for counties and municipalities
26 described in subdivisions (2) and (3) of this subsection, shall contain substantially
27 the following language:

28 Shall the (county or municipality's name) impose a local use tax
29 at the same rate as the total local sales tax rate, currently (insert
30 percent), provided that if the local sales tax rate is reduced or raised by voter

31 approval, the local use tax rate shall also be reduced or raised by the same
32 action? A use tax return shall not be required to be filed by persons whose
33 purchases from out-of-state vendors do not in total exceed two thousand dollars
34 in any calendar year.

35 ☐ YES ☐ NO

36 If you are in favor of the question, place an "X" in the box opposite "YES". If you
37 are opposed to the question, place an "X" in the box opposite "NO".

38 (2) (a) The ballot of submission in a county having a charter form of
39 government with a population in excess of nine hundred thousand shall contain
40 substantially the following language:

41 For the purposes of enhancing county and municipal public safety, parks,
42 and job creation and enhancing local government services, shall the county be
43 authorized to collect a local use tax equal to the total of the existing county sales
44 tax rate of (insert tax rate), provided that if the county sales tax is repealed,
45 reduced or raised by voter approval, the local use tax rate shall also be repealed,
46 reduced or raised by the same voter action? Fifty percent of the revenue shall be
47 used by the county throughout the county for improving and enhancing public
48 safety, park improvements, and job creation, and fifty percent shall be used for
49 enhancing local government services. The county shall be required to make
50 available to the public an audited comprehensive financial report detailing the
51 management and use of the countywide portion of the funds each year. A use tax
52 is the equivalent of a sales tax on purchases from out-of-state sellers by in-state
53 buyers and on certain taxable business transactions. A use tax return shall not
54 be required to be filed by persons whose purchases from out-of-state vendors do
55 not in total exceed two thousand dollars in any calendar year.

56 ☐ YES ☐ NO

57 If you are in favor of the question, place an "X" in the box opposite "YES". If you
58 are opposed to the question, place an "X" in the box opposite "NO".

59 (b) The ballot of submission in a municipality within a county having a
60 charter form of government with a population in excess of nine hundred thousand
61 shall contain substantially the following language:

62 Shall the municipality be authorized to impose a local use tax at the same
63 rate as the local sales tax by a vote of the governing body, provided that if any
64 local sales tax is repealed, reduced or raised by voter approval, the respective
65 local use tax shall also be repealed, reduced or raised by the same action? A use
66 tax return shall not be required to be filed by persons whose purchases from

67 out-of-state vendors do not in total exceed two thousand dollars in any calendar
68 year.

69 ☐ YES ☐ NO

70 If you are in favor of the question, place an "X" in the box opposite "YES". If you
71 are opposed to the question, place an "X" in the box opposite "NO".

72 (3) The ballot of submission in any city not within a county shall contain
73 substantially the following language:

74 Shall the (city name) impose a local use tax at the same rate as
75 the local sales tax, currently at a rate of (insert percent) which includes
76 the capital improvements sales tax and the transportation tax, provided that if
77 any local sales tax is repealed, reduced or raised by voter approval, the respective
78 local use tax shall also be repealed, reduced or raised by the same action? A use
79 tax return shall not be required to be filed by persons whose purchases from
80 out-of-state vendors do not in total exceed two thousand dollars in any calendar
81 year.

82 ☐ YES ☐ NO

83 If you are in favor of the question, place an "X" in the box opposite "YES". If you
84 are opposed to the question, place an "X" in the box opposite "NO".

85 (4) If any of such ballots are submitted on August 6, 1996, and if a
86 majority of the votes cast on the proposal by the qualified voters voting thereon
87 are in favor of the proposal, then the ordinance or order and any amendments
88 thereto shall be in effect October 1, 1996, provided the director of revenue
89 receives notice of adoption of the local use tax on or before August 16, 1996. If
90 any of such ballots are submitted after December 31, 1996, and if a majority of
91 the votes cast on the proposal by the qualified voters voting thereon are in favor
92 of the proposal, then the ordinance or order and any amendments thereto shall
93 be in effect on the first day of the calendar quarter which begins at least
94 forty-five days after the director of revenue receives notice of adoption of the local
95 use tax. If a majority of the votes cast by the qualified voters voting are opposed
96 to the proposal, then the governing body of the county or municipality shall have
97 no power to impose the local use tax as herein authorized unless and until the
98 governing body of the county or municipality shall again have submitted another
99 proposal to authorize the governing body of the county or municipality to impose
100 the local use tax and such proposal is approved by a majority of the qualified
101 voters voting thereon.

102 3. The local use tax may be imposed at the same rate as the local sales

103 tax then currently in effect in the county or municipality upon all transactions
104 which are subject to the taxes imposed pursuant to sections 144.600 to 144.745
105 within the county or municipality adopting such tax; provided, however, that if
106 any local sales tax is repealed or the rate thereof is reduced or raised by voter
107 approval, the local use tax rate shall also be deemed to be repealed, reduced or
108 raised by the same action repealing, reducing or raising the local sales tax.

109 4. For purposes of sections 144.757 to 144.761, the use tax may be
110 referred to or described as the equivalent of a sales tax on purchases made from
111 out-of-state sellers by in-state buyers and on certain intrabusiness
112 transactions. Such a description shall not change the classification, form or
113 subject of the use tax or the manner in which it is collected.

**Section 1. Notwithstanding the provisions of section 1.140 to the
2 contrary, the provisions of sections 32.087 and 144.757, as amended by
3 this act, shall be nonseverable, and if any provision is for any reason
4 held to be invalid, such decision shall invalidate all of the remaining
5 provisions of section 32.087 and 144.757, as amended by this act.**

Section B. Because of the need to replace local revenues which became
2 unexpectedly unavailable for local governments to provide for local law
3 enforcement, fire protection, emergency personnel, and other vital services and
4 due to the detrimental impact that lost local revenues has had on the domestic
5 economy by placing Missouri dealers of motor vehicles, outboard motors, boats
6 and trailers at a competitive disadvantage to non-Missouri dealers of motor
7 vehicles, outboard motors, boats and trailers, section A of this act is deemed
8 necessary for the immediate preservation of the public health, welfare, peace and
9 safety, and is hereby declared to be an emergency act within the meaning of the
10 constitution, and section A of this act shall be in full force and effect upon its
11 passage and approval.

✓